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In re Application of
BERGER, Thomas, et al.
Application No.: 09/914,950
PCT No.: PCT/EP00/04733
Int. Filing Date: 24 May 2000
Priority Date: 26 May 1999
Attorney's Docket No.: 18446.3
For: ELECTRODE UNIT FOR
RECHARGEABLE
ELECTROCHEMICAL CELLS

DECISION

ON PETITION UNDER

37 CFR 1.181

This is a decision on applicants' response to Notification of Missing Requirements, filed 06 December 2001, in effect asking that the Office vacate the Notification of Missing Requirements mailed 24 October 2001. This response is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 May 2000, applicants filed international application PCT/EP00/04733, which claimed a priority date of 26 May 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 December 2000. On 17 November 2000, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 26 November 2001.

On 06 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration executed by Thomas Berger, Birgit Fuchs, and Angela Piepke.

On 24 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration was defective because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge for late filing of the oath or declaration was due.

On 06 December 2001, applicants filed the instant response to the Notification of Missing Requirements, accompanied by, *inter alia*, copies of the Notification of Missing Requirements and a fax from the PCT Help Desk.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventors who submitted an application under §1.494 or §1.495 are the inventors in the international application designating the United States. The inventors in the international application include the inventors named upon filing of the international application or resulting from any changes made under Rule 92*bis* in the international stage. The record does not reflect any such requests under Rule 92*bis* during the international stage.

The inventors in the international application are Thomas Berger, Birgit Fuchs and Angela Mayer. The inventors on the declaration are Thomas Berger, Birgit Fuchs and Angela Piepke. Thus, the declaration fails to comply with 37 CFR 1.497(a)(3). Because the Notification of Missing Requirements indicated that the declaration was defective based on improper execution, rather than upon failure to identify each inventor named in the international application, the Notification of Missing Requirements is hereby vacated.

Applicant is required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Attention is directed to MPEP §605.04(c) and the requirement for a petition under 37 CFR 1.182 contained therein, if there has been a change of name. If there was an error in the inventive entity listed on the international application, attention is directed to 37 CFR 1.497(d).

CONCLUSION

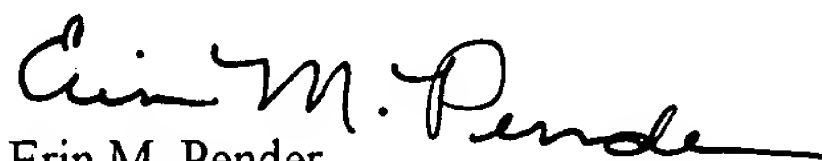
For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**, to the extent that the Notification of Missing Requirements mailed 24 October 2001 is **VACATED**.

A proper response as indicated above must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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